

AMENDED IN SENATE APRIL 17, 2007

SENATE BILL

No. 563

Introduced by Senator Ridley-Thomas

February 22, 2007

An act to amend Sections 5216.1 and 5412 of, ~~and to add Section 5412.5 to,~~ the Business and Professions Code, relating to outdoor advertising.

LEGISLATIVE COUNSEL'S DIGEST

SB 563, as amended, Ridley-Thomas. Outdoor advertising.

The Outdoor Advertising Act regulates placement of advertising displays adjacent to and within specified distances of highways that are part of the national system of interstate and defense highways and federal-aid highways. The act provides that lawfully erected advertising displays include displays that were erected in compliance with state laws and local ordinances in effect at the time of their erection or displays that were subsequently brought into full compliance with state laws and local ordinances. The act provides that an advertising display whose use is modified after erection in a manner that causes it to become illegal is not a lawfully erected display. The act establishes a rebuttable presumption that an advertising display is lawfully erected if it has been in existence for a period of 5 years or longer without the owner having received written notice during that period from a governmental entity indicating that the display was not lawfully erected. The act requires compensation to be paid to the owner of a lawfully erected advertising display if the display is compelled to be removed or its customary maintenance or use is limited, except as specified. A violation of the act is a crime.

This bill would provide that an advertising display whose height, orientation, or size is modified after erection in a manner that causes it to become illegal is not a lawfully erected display. The bill would delete the provisions enabling an advertising display to be deemed lawfully erected if it is subsequently brought into full compliance with state laws and local ordinances and the provisions establishing the rebuttable presumption regarding an advertising display in existence for a period of 5 years or longer. The bill would also authorize advertising displays that are subsequently altered in violation of the terms of a building permit ~~and certain advertising displays in commercial areas~~ to be removed without compensation, as specified.

Because a violation of the bill's provisions with regard to outdoor advertising displays would be a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 5216.1 of the Business and Professions
- 2 Code is amended to read:
- 3 5216.1. "Lawfully erected" means, in reference to advertising
- 4 displays, advertising displays that were erected in compliance with
- 5 state laws and local ordinances in effect at the time of their erection,
- 6 except that the term does not apply to any advertising display
- 7 whose use, height, orientation, or size is modified after erection
- 8 in a manner that causes it to become illegal.
- 9 SEC. 2. Section 5412 of the Business and Professions Code is
- 10 amended to read:
- 11 5412. Notwithstanding any other provision of this chapter, no
- 12 advertising display that was lawfully erected anywhere within this
- 13 state shall be compelled to be removed, nor shall its customary
- 14 maintenance or use be limited, whether or not the removal or
- 15 limitation is pursuant to or because of this chapter or any other
- 16 law, ordinance, or regulation of any governmental entity, without

1 payment of compensation, as defined in the Eminent Domain Law
2 (Title 7 (commencing with Section 1230.010) of Part 3 of the Code
3 of Civil Procedure), except as provided in Sections 5412.1, 5412.2,
4 5412.3, and 5412.5. The compensation shall be paid to the owner
5 or owners of the advertising display and the owner or owners of
6 the land upon which the display is located. ~~This section shall not~~
7 ~~apply to an advertising display that was subsequently altered in~~
8 ~~violation of the terms of the building permit.~~

9 This section applies to all displays that were lawfully erected in
10 compliance with state laws and local ordinances in effect when
11 the displays were erected if the displays were in existence on
12 November 6, 1978, or lawfully erected after November 6, 1978,
13 regardless of whether the displays have become nonconforming
14 or have been provided an amortization period. This section does
15 not apply to on-premise displays as specified in Section 5272-~~or~~,
16 to displays which are relocated by mutual agreement between the
17 display owner and the local entity, *or to an advertising display*
18 *that was subsequently altered in violation of the terms of the*
19 *building permit.*

20 “Relocation,” as used in this section, includes removal of a
21 display and construction of a new display to substitute for the
22 display removed.

23 It is a policy of this state to encourage local entities and display
24 owners to enter into relocation agreements which allow local
25 entities to continue development in a planned manner without
26 expenditure of public funds while allowing the continued
27 maintenance of private investment and a medium of public
28 communication. Cities, counties, cities and counties, and all other
29 local entities are specifically empowered to enter into relocation
30 agreements on whatever terms are agreeable to the display owner
31 and the city, county, city and county, or other local entity, and to
32 adopt ordinances or resolutions providing for relocation of displays.

33 ~~SEC. 3. Section 5412.5 is added to the Business and Professions~~
34 ~~Code, to read:~~

35 ~~5412.5. A city, county, or city and county, whose ordinances~~
36 ~~or regulations are otherwise in full compliance with Section 5412,~~
37 ~~is not in violation of that section if the entity elects to require the~~
38 ~~removal without compensation of a display that meets all the~~
39 ~~following requirements:~~

~~(a) The display is located within an area shown as commercial on a local general plan as of either the date an ordinance or regulation is enacted or becomes applicable to the area that incorporates the provisions of this section.~~

~~(b) The display is located within an area zoned for commercial use either on the date on which the removal requirement is adopted or becomes applicable to the area.~~

~~(c) The display is not located within 660 feet from the edge of the right-of-way of an interstate or primary highway with its copy visible from the highway, nor placed or maintained beyond 660 feet from the edge of the right-of-way of an interstate or primary highway with the purpose of its message being read from the main traveled way.~~

~~(d) The display is not required to be removed because of an overlay zone, combining zone, or any other special zoning district whose primary purpose is the removal or control of signs.~~

~~(e) The display is allowed to remain in existence for the period of time set forth below after the enactment or amendment after January 1, 2008, of any ordinance or regulation necessary to bring the entity requiring removal into compliance with Section 5412, and after giving notice of the removal requirement:~~

Fair Market Value on Date of Notice of Removal Requirement	Minimum Years Allowed
Under \$1,999	2
\$2,000 to \$3,999	3
\$4,000 to \$5,999	4
\$6,000 to \$7,999	5
\$8,000 to \$9,999	6
\$10,000 and over	7

~~The amounts provided in this section shall be adjusted each January 1, beginning January 1, 2008, in accordance with the changes in building costs, as indicated in the United States Department of Commerce Composite Cost Index for Construction Costs.~~

~~SEC. 4.~~

~~SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school~~

1 district will be incurred because this act creates a new crime or
2 infraction, eliminates a crime or infraction, or changes the penalty
3 for a crime or infraction, within the meaning of Section 17556 of
4 the Government Code, or changes the definition of a crime within
5 the meaning of Section 6 of Article XIII B of the California
6 Constitution.

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